



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201230031

U.I.L.: 414.08-00

MAY 03 2012

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Attn: xxxxxxxxxxxxxx

SE:T:EP:RA:T2

Legend:

College A	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Convention B	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Convention C	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Association S	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Commission H	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Church A	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
State B	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Board D	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Plan X	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Committee F	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Religion Z	=	XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxxxx:

This letter is in response to your request dated xxxxxxxxx, as supplemented by correspondence dated xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, xxxxxxxxxx, and xxxxxxxxxx, submitted on your behalf by

your authorized representative regarding the church plan status of Plan X within the meaning of section 414(e) of the Internal Revenue Code (Code).

The following facts and representations have been submitted on your behalf:

College A is a non-profit corporation located in State B. College A is a private, four year co-educational, comprehensive university of liberal arts and sciences and professional studies and was founded in 1826. College A has been affiliated with Convention B since 1850 and is a member of Association S. College A received a ruling dated October 11, 1971, from the Internal Revenue Service (IRS) that it is exempt from Federal Income Taxes under Section 501(c)(3) of the Code.

Prior to October, 1994, College A was governed by a Board of Trustees, all of whom were chosen by Convention B except that between 1880 and 1900 nine out of thirty-six trustees then constituting the Board could be chosen by Convention C.

On October 14, 1994, new Amended and Restated Articles of Incorporation were adopted (Current Articles). Under the Current Articles, the Board consists of twenty-four trustees, consisting of three classes of eight trustees. All trustees are required to be members of Religion Z. All trustees are elected by Convention B. However, the trustees elected by Convention B must be jointly approved by the Nominating Committee of Convention B and by Board D (or a committee acting on behalf of Board D).

The Current Articles state that College A's purpose is to operate a college and conduct related enterprises with the Christian-oriented aims and ideals of Religion Z as expressed generally in the Religion Z Faith and Message of 1963. Similarly, College A's Mission Statement declares College A's Religion Z affiliation to be one of its chief assets and a harmonious relationship with Convention B to be of great importance. College A employs a person at the Vice President level specifically to attend to relationships with Convention B and its member churches. The Mission Statement reflects College A's conviction that serving society is part of Church A's mission, including service through worship, evangelizing, ministry, missions, fellowship, and discipleship. As part of this mission, College A promotes the spiritual, social, emotional, and physical development of its students and encourages them to utilize their skills, talents, and abilities as they pursue meaningful careers, life-long learning, and service to God and others. Students are required to attend chapel services on one weekday each week. The chapel service is a Religion Z service.

College A's Faculty Handbook provides that in filling vacancies, consideration is given to members of evangelical Christian denominations, with the understanding that first preference will be given in each case to active members of Religion Z churches, provided that academic and professional standards are met. College A

is a member of Association S and its affiliation is listed in all publications concerning College A.

College A emphasizes liberal arts and pre-professional programs, especially those undergraduate, graduate, and professional programs that offer opportunities for service. Six credit hours of "Introduction to the Old and New Testaments of the Bible" are required of each student. College A offers degree programs allowing students to obtain a bachelors degree with either a major in Christian Studies or a minor in Bible & Christian Heritage, Philosophy, or Christian Education. Students may also enroll in a course offered by the Department of Christian Studies and Philosophy as part of a non-degree program of pre-theological studies. In addition, College A sponsors an Institute for Christian Leadership to provide academic and practical training for pastors, evangelists, church staff persons, and lay leaders.

Convention B directly supports the maintenance of the Religion Z Student Union at College A. This includes the payment of a salary supplement for the director of the Religion Z Student Union. College A explicitly inquires into the church affiliation and activities of each prospective student. Although there is no express policy favoring Religion Z applicants, many of College A's scholarships are available only to Religion Z students. Banners on the campus publicly express Religion Z affiliation and leadership of College A. Major college events frequently take place at Religion Z churches. Only one non-Religion Z denomination has a student organization on campus.

College A's library is the depository for the book and manuscript collection Commission H. This includes a history of Religion Z pastors in State B. College A and Commission H jointly employ the librarian and clerical staff that catalogs and administers the collection. The salary for those persons is indirectly paid by Convention B, but College A provides benefits for them, including participation in Plan X. The Board of Trustees of College A serves as the governing body for Commission H and the head of College A's history department serves in an advisory capacity.

Convention B provides the largest single external source of funding for College A, approximately seven percent of its annual budget. The Convention B contribution to College A is awarded based on the number of Religion Z students.

College A submits a report on the operation of College A to the annual meeting of Convention B and a copy of the audited financial statements of College A is normally printed in the bulletin distributed to messengers (delegates) at the convention for their review.

The Articles of Incorporation provide that upon discontinuance of College A by dissolution and liquidation, all of its assets must be transferred to Convention B, unless Convention B does not exist at that time. In that event, the assets must be

transferred to another qualified educational, religious or other similar organization selected by the Board.

College A has approximately 450 employees. Substantially all of these are employed in the education endeavors of College A or in supporting roles for those endeavors. At any time, approximately four to five employees (about one percent) may be employed at an AM-FM radio station operated by College A for student training and experience. These employees are treated as employees of College A. Although some of these employees work on a part-time basis, they are eligible to participate in Plan X to the extent that they meet the participation requirements. Any net taxable income derived from the radio station is reported as unrelated business taxable income to the extent required by section 511 of the Code.

College A adopted Plan X, a defined benefit plan, effective January 1, 1974. Plan X was restated January 1, 1976 to comply with the requirements of the Employee Retirement Income Security Act of 1974. Plan X has been amended and restated several times in accordance with the changing requirements of the Code. Plan X's most recent restatement was in 1997 and it received its most recent favorable determination letter on August 23, 2002.

Plan X is administered by Committee F which was established on March 18, 1976, and its sole function is to administer Plan X. Committee F consists of seven members. Board D which is controlled by or associated with Convention B appoints Committee F. Members of Committee F serve at the pleasure of Board D which has the power to appoint and remove members of Committee F at will.

It is represented that no election under Code section 410(d) has ever been filed for Plan X or any other plan sponsored by College A. It is further represented that Plan X is qualified under section 401(a) of the Code.

In accordance with Revenue Procedure 2011-44, Notice to Employees with reference to Plan X was provided on November 9, 2011. This notice explained to participants of Plan X the consequences of church plan status.

Based on the foregoing, you request a ruling that Plan X is a church plan within the meaning of section 414(e) of the Code for all years since the plan was established and that the inclusion in Plan X of a limited number of employees who work in an unrelated trade or business does not adversely affect that ruling.

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e) was added to the Code by section 1015 of ERISA. Section 1017(e) of ERISA provided that section 414(e) applied as of the date of ERISA's enactment. However, section 414(e) was subsequently amended by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980, Pub. Law 96-364, to provide that section 414(e) was effective as of January 1, 1974.

Section 414(e)(2) of the Code provides, in part, that the term "church plan" does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Code); or if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) of the Code or section 414(e)(3)(B) of the Code (or their beneficiaries).

Section 414(e)(3)(A) of the Code provides that a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(B) of the Code defines "employee" of a church or a convention or association of churches to include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry, regardless of the source of his or her compensation, and an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 of the Code shall be deemed the employer of any individual included as an employee under subparagraph (B).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

Revenue Procedure 2011-44, 2011-39 I.R.B. 446, supplements the procedures for requesting a letter ruling under section 414(e) of the Code relating to church plans. The revenue procedure: (1) requires that plan participants and other interested persons receive a notice in connection with a letter ruling request

under section 414(e) of the Code for a qualified plan; (2) requires that a copy of the notice be submitted to the IRS as part of the ruling request; and (3) provides procedures for the IRS to receive and consider comments relating to the ruling request from interested persons.

In order for an organization that is not itself a church or a convention or association of churches to have a qualified church plan, it must establish that its employees are employees or deemed employees of a church or convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's control by or affiliation with a church or convention or association of churches. Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is exempt from tax under section 501 of the Code; (2) is controlled by or associated with a church or convention or association of churches. In addition in order to be a church plan, the administration or funding (or both) of the plan must be by an organization described in section 414(e)(3)(A) of the Code. To be described in section 414(e)(3)(A) of the Code, an organization must have as its principal purpose the administration or funding of the plan and must also be controlled by or associated with a church or convention or association of churches.

In this case, College A is an organization described in section 501(c)(3) of the Code, which is exempt from tax under section 501(a) of the Code. College A is controlled by Convention B, a convention with Church A. College A was established and is governed by Convention B. College A promotes the Religion Z faith, receives significant financial and non-financial assistance from Convention B, and a preference is shown for Religion Z faith in hiring faculty members. College A is a member of Association S and its affiliation is listed in all publications concerning College A.

College A is associated with Convention B by sharing common religious bonds and convictions. College A's Articles of Incorporation specifically state that the promotion of Religion Z faith and ideals is the reason for College A's existence. Church A's Faith and Message Statement of 1963 is cited as the standard to be followed.

College A's Mission Statement declares that College A's affiliation with Church A is one of its chief assets and declares such harmonious relationship with Church A members in State B through financial support and prayers and by entrusting their children to College A. College A employs a person to promote relationships with Convention B and its member churches. The Mission Statement reflects College A's conviction that serving society is part of Church A's mission, including service through worship, evangelizing, ministry, missions, fellowship, and discipleship. As part of this mission, College A promotes the spiritual, social, emotional, and physical development of its students and encourages them to utilize their skills, talents, and abilities as they pursue meaningful careers, life

long learning, and service to God and others. Students are required to attend chapel services on one weekday each week.

College A emphasizes liberal arts and pre-professional programs, especially those undergraduate, graduate, and professional programs that offer opportunities for service. Six credit hours of Introduction to the Old and New Testaments of the Bible are required of each student. College A offers degree programs allowing students to obtain a bachelors degree with either a major in Christian studies or a minor in Bible and Christian heritage, Philosophy, or Christian Education.

In addition, College A sponsors an Institute for Christian Leadership to provide academic and practical training for pastors, evangelists, church staff persons, and lay leaders. Convention B directly supports the maintenance of the Student Union at College A by supplementing the salary for the director of the Student Union. College A explicitly inquires into the church affiliation and activities of each prospective student. Many of College A's scholarships are available only to Religion Z students. Banners on the campus publicly express Church A's affiliation and leadership of College A. Major college events frequently take place at Religion Z churches.

In view of the stated purpose of College A, its organization and structure, its actual activities and interrelationship with its member churches, its common religious bonds and convictions it shares with Convention B and Church A, we conclude that College A is "associated " with a church or a convention or association of churches within the meaning of section 414(e)(3)(D) of the Code, and the employees of College A meet the definition of employee in section 414(e)(3)(B) of the Code and are deemed to be employees of a church or a convention or association of churches by virtue of being employees of an organization which is exempt from tax under section 501 of the Code and which is controlled by or associated with a church or a convention or association of churches.

In addition, it is represented that Plan X is administered by Committee F which is controlled by Board D which has the power to appoint and remove members of Committee F. Board D is associated with Church A through Convention B. Committee F's primary purpose and function is the administration of Plan X. Because Board D and Convention B are associated with Church A within the meaning of section 414(e)(3)(D) of the Code, Committee F is therefore considered to be associated with a church or convention or association of churches with the meaning of section 414(e)(3)(A) of the Code through its relationship with Board D and Convention B.

Accordingly, the administration of Plan X satisfies the requirements regarding church plan administration under section 414(e)(3)(A) of the Code, and we find that Plan X is maintained by an organization that is associated with a church or

convention or association of churches, and the principal purpose or function of which is the administration of a church or convention or association of churches.

Based on the foregoing facts and representations, we conclude that Plan X is and has been a church plan within the meaning of section 414(e) of the Code since January 1, 1974. In addition, we conclude that Plan X has not been maintained primarily for the benefit of employees who are employed in connection with one or more unrelated trades or business as defined in section 513 of the Code.

This letter expresses no opinion as to whether Plan X satisfies the requirements for qualification under Code section 401(a). The determination as to whether a plan is qualified under section 401(a) is within the jurisdiction of the Manager, Employee Plans Determinations Program, Cincinnati, Ohio.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

A copy of this letter is being sent to your authorized representative pursuant to a Power of Attorney on file in this office.

If you have any questions regarding this letter, please contact xxxxxxxxxxxxxxxx, SE:T:EP:RA:T3, at xxxxxxxxxxxxxxxx

Sincerely yours,



Laura B. Warshawsky, Manager  
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of letter ruling  
Notice 437

cc: